Remarks

Claims 1, 12, 14-18, 27, 41-44, and 54-61 were under appeal to the Board of Patent Appeals and Interferences (BPAI). Claims 1, 27, and 56 are amended herein. New claims 62 and 63 are added herein. No new matter is added by these amendments. Therefore, after entry of this amendment, **claims 1, 12, 14-18, 27, 41-44, and 54-63** are pending.

Status of the Claims

Claims 1, 12, 14-18, 27, 41-44, and 54-61 were under appeal. The rejection of claims 12, 15-18, 41-44, and 57-60 under 35 U.S.C. § 103(a) as allegedly unpatentable over Healy *et al.* (*Am. J. Physiol. Cell Mol. Physiol.* 280:L1273-L1280, 2001) in view of Varner *et al.* (*Curr. Opin. Cell Biol.* 8:724-730, 1996), Ruoslahti (U.S. Pat. No. 6,180,084), Panzer (U.S. Pat. Publication No. 2004/0048253), and Klinghoffer (U.S. Pat. Publication No. 2004/0077574) was reversed by the BPAI. The rejection of claims 1, 14, 27, 54-56, and 61 under 35 U.S.C. § 102(b) as allegedly anticipated by Healy *et al.* was affirmed by the BPAI.

Claim Rejections – 35 U.S.C. § 102(b)

Claims 1, 14, 27, 54-56, and 61 are rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Healy *et al.* (*Am. J. Physiol. Cell Mol. Physiol.* 280:L1273-L1280, 2001). Applicants request reconsideration in view of the arguments and amendments to the claims presented herein.

Claim 1 is amended herein to recite "identifying a compound that inhibits the *in vitro* kinase activity of the Axl polypeptide and inhibits the angiogenesis phenotype in the cell-based assay..." Claim 27 is amended herein to recite "identifying a compound that inhibits the angiogenesis phenotype in the cell-based assay..." Claim 56 is amended herein to recite "identifying a compound that inhibits the kinase activity of the Axl polypeptide..." Support for these amendments may be found throughout the specification, for example at page 30, lines 14-22; page 31, lines 23-30; and page 35, lines 8-10. In its decision, the BPAI asserted that the claims 1, 27, and 56 did not include an active step "that additionally requires the compound to

have inhibited kinase activity or to have inhibited the angiogenesis phenotype" (BPAI Decision, page 10, last paragraph). As amended herein, the claims include an active step of "identifying a compound" that inhibits Axl kinase activity and/or an angiogenesis phenotype. This addresses the concern of the BPAI that "the claims do not require the tested compound to actually inhibit either the kinase or cell-based assays" (Decision, page 12, first full paragraph).

Healy *et al.* do not identify any compound that is an inhibitor of angiogenesis. In particular, Healy *et al.* do not describe an assay that includes "identifying a compound that inhibits the *in vitro* kinase activity of the Axl polypeptide" and/or "inhibits the angiogenesis phenotype in the cell-based assay…" Therefore, claims 1, 14, 27, 54-56, and 61 are not anticipated by Healy *et al.* and Applicants respectfully request withdrawal of this rejection.

New Claims

New claims 62 and 63 are added herein. Claims 62 and 63 recite a method for identifying a compound that inhibits angiogenesis, including "performing a cell-based assay in an endothelial cell comprising said Axl polypeptide in the presence of the compound, which assay produces an angiogenesis phenotype *selected from the group consisting of αvβ3 expression, tube formation, and haptotaxis*…" New claim 62 also recites "identifying a compound that inhibits the *in vitro* kinase activity of the Axl polypeptide and inhibits the angiogenesis phenotype in the cell-based assay" and new claim 63 recites "identifying a compound that inhibits the angiogenesis phenotype in the cell-based assay." Support for these claims may be found throughout the specification, for example at page 30, lines 14-22; page 31, lines 23-30; page 35, lines 8-10; and original claim 12.

Healy *et al.* do not describe any assays that include measuring αvβ3 expression, tube formation, or haptotaxis in an endothelial cell, nor "identifying a compound that inhibits the *in vitro* kinase activity of the Axl polypeptide" and/or "inhibits the angiogenesis phenotype in the cell-based assay…" Therefore, new claims 62 and 63 are novel in view of Healy *et al.* Allowance of these claims is respectfully requested.

Conclusion

Applicants respectfully submit that the claims are in condition for allowance. If any issues remain, the Examiner is requested to contact the undersigned to arrange a telephonic interview prior to the preparation of any further written action.

Respectfully submitted,

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